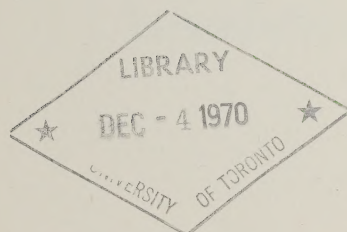


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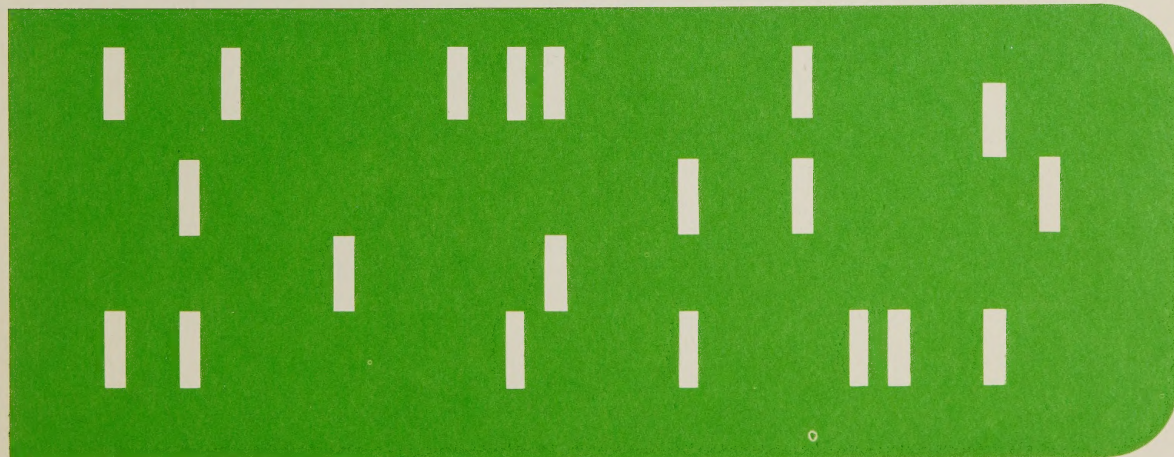


DOING BUSINESS IN CANADA



LABOUR LEGISLATION

1970



DEPARTMENT OF INDUSTRY, TRADE AND COMMERCE
OTTAWA, CANADA

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DOING BUSINESS IN CANADA

Labour Legislation

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FOREWORD

The information in this booklet deals with labour legislation in Canada and has particular reference to implications for employers in the manufacturing industry. It is intended as a guide in this field of legislation and as such refers only to the basic principles involved.


Every effort has been made to accurately reflect the legislation in force at the time of preparing the material. However, since the law contains a considerable amount of detail and in many cases varies from province to province, it is suggested that an enquirer consult with relevant provincial and/or federal authorities when seeking precise and detailed advice on a given problem.

Other publications available from the series "Doing Business in Canada" are:

- The Canadian Environment
- Forms of Business Organization
- Canadian Customs Duties
- Taxation — Income, Business, Property
- Taxation — Sales, Excise, Commodity
- Construction and Equipment Standards
- Federal Incentives to Industry
- Patents, Copyrights and Trade Marks
- Tariff Preferences for Canadian Goods Abroad

Also available:

- Financing Canadian Industries



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Revised: August, 1969

INTRODUCTION

Labour legislation in Canada is usually concerned with a contract of service between employer and employee, a contract between members of a trade union, or local working conditions.

The British North America Act, which distributes legislative powers between the Parliament of Canada and the provincial legislatures, grants to the provinces the right to enact laws in relation to "property and civil rights" and with certain exceptions, "local works and undertakings". Such being the case, labour legislation in Canada is in large part a product of provincial enactment.

Employment in factories, for example, is usually subject to provincial regulation regarding employment of young persons, maximum hours of work, minimum rates of pay, annual vacations with pay, and certain minimum standards for the health and safety of the employee. The most important piece of legislation, however, is that dealing with unionization. Freedom of association is guaranteed and employers are required to recognize and bargain with the trade union representing the majority of their employees in an appropriate unit. Wage rates, hours of work, fringe benefits, and other aspects of working conditions are normally settled

through collective bargaining. Conciliation services are available for settlement of disputes.

Workers in industries within federal jurisdiction are subject to the Canada Labour (Standards) Code and other labour laws enacted by the Parliament of Canada. The Canada Labour (Standards) Code lays down the following standards: (1) a minimum wage of \$1.25 an hour, (2) standard hours of 8 in a day and 40 in a week, after which an overtime rate of one and one-half times the regular rate must be paid and, subject to certain provisions for exceptions, a maximum work week of 48 hours, (3) an annual paid vacation of two weeks after a year of employment, and (4) eight paid general holidays.

Industries and undertakings within federal jurisdiction are those of a national, inter-provincial or international nature, such as railways, highway transport, pipelines, canals, and telephone, telegraph and cable systems, where any of these undertakings connect a province with another province or with another country. Shipping and services connected with shipping, air transport, radio and television broadcasting, banks, grain elevators, flour and feed mills and uranium mining are also industries within federal jurisdiction.

EMPLOYMENT SERVICES

The Canada Manpower Division of the Department of Manpower and Immigration provides a free public employment service for all Canadian employers and workers, and collects and publishes information on manpower supply and demand in all industries and occupations. Over 300 Canada Manpower Centres, five regional offices, and the head office in Ottawa, are established to provide such service.

When labour requirements cannot be met from the local labour supply, the Canada Manpower Centre can clear the employer's order to any or all other Centres across Canada and, if necessary, to immigration offices in other countries. By use of the telex system of communication between Centres in Canada, local labour requirements can often be filled with workers from distant points within a very short space of time.

Canada Manpower Centres have personnel experienced in serving employers' needs for all classes of workers — professional, scientific, managerial, sales and clerical, skilled, semi-skilled and unskilled — whether for full or part-time employment, or casual work. Through application of the most up-to-date methods of occupational classification, job analysis and selection techniques, the Centre ensures that only those workers who meet the employer's specifications are referred to him for his consideration.

Because of technical knowledge of occupational and job requirements and experience in the selection of workers, Canada Manpower Centres are in a position to assist and advise employers on problems associated not only with recruitment, but also with the maintenance or retention of a competent, productive work force.

The Department of Manpower and Immigration administers manpower programs which are of direct assistance to employers in meeting their employment needs. The Occupational Training for Adults Program, besides providing assistance for individual CMC clients to upgrade their work skills, also offers

to help pay the costs of apprenticeship training and certain types of occupational training that companies may offer to their employees. The Manpower Mobility Program provides assistance for workers who are required to move to another area to work.

MANPOWER CONSULTATIVE SERVICE

The Manpower Consultative Service of the Department of Manpower and Immigration has been established to provide assistance to labour and management, or to management alone where no union exists, in their efforts toward meeting the challenges of manpower adjustment arising as a consequence of technological and economic change at the plant or industry level. Methods of solving manpower adjustment problems have been devised based upon the principles of joint consultation, prior

research and planning, and the co-ordinated application of existing federal and provincial services and facilities, including those of training and placement. Financial incentives have been provided to facilitate the joint development of plant and industry manpower adjustment programs.

Enquiries may be directed to the Director, Activities Development Branch, Canada Manpower Division, Department of Manpower and Immigration, Ottawa.

MINIMUM AGE

All provinces have legislation which fixes a minimum age for employment in factories. British Columbia fixes a minimum age of 15 and New Brunswick a minimum age of 16 but provision is made for exceptions by permit from the Minister of Labour. The minimum age for employment in factories in Alberta and Prince Edward Island is 15, and 16 in Newfoundland, Manitoba and Saskatchewan.

In Nova Scotia, the minimum age for employment in factories is 14 but children under 16 cannot be employed during school hours,

unless granted an employment certificate. In Ontario, the minimum is 15, but children must attend school until the age of 16. In Quebec, the minimum age is 16 but 15-year-olds may be employed during school holidays with a permit. In some designated occupations, where employment is deemed to be unsuitable for young persons, the minimum age is 18 for girls. In others, boys under 18 may not be employed and the employment of girls is forbidden.

APPRENTICESHIP AND TRADESMEN'S QUALIFICATIONS

Apprenticeship in designated trades is subject to provincial control. On completion of apprenticeship a certificate is issued by the appropriate board.

Some of the provinces have ruled that employment in specified trades (carpentry,

plumbing, automobile repairing, barbering, etc.) is subject to apprenticeship certificate or demonstration of competency. Many municipalities have by-laws for the regulation and licensing of tradesmen.

MINIMUM WAGE

A minimum wage for factory employment, applicable to both men and women, has been established under minimum wage legislation in all provinces. For a few types of factory employment, a higher minimum which is binding on all firms in the trade within an area or throughout the province may have the force of law under the terms of industrial standards legislation. In addition, of course, an employer is required to recognize and bargain with a certified trade union, and the wages set by agreement have the force of law for the duration of the contract in each individual case.

The minimum rates applicable to factory employment are as follows: in Ontario, \$1.30 an hour; in Manitoba, Alberta and British Columbia, \$1.25 an hour; in New Brunswick, \$1 an hour; in Prince Edward Island, \$1.10 an hour for men (90 cents an hour in food processing plants) and 95 cents an hour for women; and in Newfoundland, \$1.10 for men and 85 cents for women.

In the other three provinces there are regional differentials in minimum rates. In Nova Scotia, minimum rates are \$1.15 an hour for males and 90 cents for females in the larger centres; \$1.05 an hour for males and 80 cents for females in the remainder of the province. In Quebec, factory workers must be paid not less than \$1.25 an hour in the Montreal metropolitan region and not less than \$1.15 an hour elsewhere in the province. In Saskatchewan, the minimum rate is \$1.05 an hour in ten cities and 95 cents an hour in the rest of the province.

Industrial standards legislation in Ontario, Alberta, Newfoundland, New Brunswick, Nova Scotia, Prince Edward Island and Saskatchewan provides the means whereby wages and hours of work can be discussed at a conference of a representative group of employers and employees in a trade or industry, and these standards can be made legally binding

throughout the trade or industry when agreement is reached. These laws have been applied chiefly to the building trades, barbering and, in Ontario, to the fur industry and some branches of the clothing industry. In Newfoundland, New Brunswick, Nova Scotia and Prince Edward Island, the Acts have been applied to the construction trades only.

The Collective Agreement Decrees Act in the Province of Quebec is similar in nature to the industrial standards legislation of the other provinces. Under the Act, certain terms of a collective agreement between employers and trade unions — in particular, those respecting wages, hours, vacations and apprenticeship — may be made binding by government decree on all the employers and employees in the province or in a stated area. Decrees under this Act cover a large part of Quebec industry. The parties to a collective agreement which has been made legally binding must form a parity committee to ensure the enforcement of the decree. The cost of supervision is defrayed by a levy on the employee's remuneration and the employer's payroll. In some instances, employers are required to collect the employee's contribution.

The Quebec construction industry is governed by the Construction Industry Labour Relations Act, which is similar in principle to the Collective Agreement Decrees Act. It requires multi-party, multi-trade bargaining in the industry.

The Construction Industry Wages Act in Manitoba provides for the setting of minimum rates of wages and maximum hours of work at regular rates for employees in the construction industry, based on the recommendations of a board equally representative of employers and employees. A schedule for each sector of the industry, issued annually, sets hourly rates of wages and the regular work week for various classifications of construction work.

EQUAL PAY

Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario, Prince Edward Island and Saskatchewan prohibit discrimination between men and women in rates of pay when they do the same or comparable

work in the same establishment. The Quebec Fair Employment Practices law prohibits discrimination in employment on the basis of sex, thereby prohibiting discrimination in rates of pay solely on the grounds of sex.

HOURS OF WORK

Five provinces have 'hours of work' laws of general application. Subject to special exemptions, hours of work in factories are limited in Alberta and British Columbia to 8 in a day and 44 in a week and in Ontario to 8 in a day and 48 in a week. The Manitoba and Saskatchewan Acts regulate hours through the requirement that one and one-half times the regular rate must be paid if work is continued after specified hours. In Saskatchewan, payment of the overtime rate is required after 8 and 44 hours in factory employment. In Manitoba,

the payment of time and one-half is obligatory for work in factories after 8 and 48 hours for men and 8 and 44 hours for women.

In the remaining provinces there is some regulation of hours through other statutes.

Under all the Acts, daily hours may be increased (in Manitoba and Saskatchewan, without payment of overtime rates) to provide for a 5-or-5½ day week, so long as weekly hours are not exceeded. Except in Saskatchewan, the Acts also stipulate that hours may be exceeded in emergencies.

ANNUAL VACATIONS AND PUBLIC HOLIDAYS

Except in Newfoundland, factory workers must be granted annual vacations with pay. In Prince Edward Island and New Brunswick, workers are entitled to a vacation with pay of one week after a year of service; in Ontario, workers are entitled to a vacation of one week after each of the first three years of employment, and two weeks after the fourth and each subsequent year; in Nova Scotia, Quebec and the four western provinces, the annual paid vacation required by law is two weeks, and, in Saskatchewan three weeks, after five years' service.

Under all nine provincial laws, workers

are entitled to vacation pay on termination of employment during a working year. In Nova Scotia and Ontario, a stamp system is used for the payment of vacation pay in the construction industry. Ontario, however, is phasing out the stamp system.

Six provinces — Alberta, British Columbia, Manitoba, Nova Scotia, Ontario and Saskatchewan — have enacted legislation of general application dealing with public holidays. The number of holidays named varies from 5 to 8 and the provisions for payment also vary.

FAIR EMPLOYMENT PRACTICES

Fair employment practices Acts prohibiting discrimination in hiring and conditions of employment and in trade union membership on grounds of race, colour, religion or national origin are in force in Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario, Prince Edward Island, Quebec and Saskatchewan. Two provinces — British Columbia and Ontario — also forbid discrimination in employment and trade union membership on grounds of age. The British Columbia and Quebec Acts include in the prohibited employment practices, discrimination on the basis of sex.

These Acts contain further prohibitions regarding the publication of advertisements, the use of application forms and the making of enquiries in connection with employment which express or imply discrimination on any of the forbidden grounds or which require an applicant to furnish information as to his race, colour, religion or national origin. Most of the Acts allow an exception, however, where a preference is based upon a *bona fide* occupational qualification. In Manitoba and Quebec, employers with fewer than five employees are excluded from the Act.

WORKMEN'S COMPENSATION

In all provinces compensation is provided for workmen in most types of industrial employment who sustain personal injury by accident arising out of and in the course of employment, unless they are disabled for less than a stated number of days, and to the dependents of such workmen if death results from an industrial accident. Compensation is also payable for specified industrial diseases.

Each workmen's compensation act provides for an accident fund administered by a workmen's compensation board to which

employers are required to contribute and from which compensation and medical benefits are paid. The acts thus provide for a system of compulsory collective liability, relieving employers of individual responsibility in accident costs. The assessment rate for each class of industry is fixed by the board according to the hazards of the class.

A workman to whom these provisions apply has no right of action against his employer for injury from an accident occurring in the course of employment.

UNEMPLOYMENT INSURANCE

All employees paid at an hourly, daily, piece or mileage rate regardless of the amount of their earnings, and all employees paid at a weekly, monthly, annual or other rate who receive \$7800 or less per annum, must be insured. There are certain exceptions but in the main these exceptions are of minor interest to the businessman.

The fund from which insurance benefits are paid is created by contributions from employers, employees, and the federal government. Employers and employees contribute equally to the scheme, the weekly contributions of each ranging from ten cents, where the earnings of the employee are less than twenty dollars a week, to one dollar and forty cents, where the earnings are one hundred dollars or over per week. The federal government contributes an amount equal normally to one-fifth of the combined employer-employee contribution and assumes the cost of administration.

Every employer with insurable employees is required to register with the Unemployment Insurance Commission. Applications for registration are available from the sixty-nine offices of the Commission. There is no charge for registration. When the form has been submitted a "Licence to Purchase Unemployment Insurance Stamps" may be obtained.

The licence must be produced at the post office each time unemployment insurance stamps are purchased. Since these stamps represent work performed for an employer,

and since the period of time for which an unemployed person can draw benefits is related to the length of time that he has worked and contributed to the fund, strict control must be exercised over their sale. Only *bona fide* employers, as evidenced by the licence which they produce at the post office, can purchase unemployment insurance stamps.

The stamps are affixed to an unemployment insurance book which is the property of and issued by the Unemployment Insurance Commission to an employee who lodges it with his employer while in employment. This book constitutes the record on which the employee's insurance benefits are based should he ever find himself unemployed. The employer is required to give an employee his insurance book, stamped up to date, on separation.

Employers are encouraged to pay the aggregate contributions payable for their employees by a bulk payment method at monthly periods. This permits him to pay his contributions by cheque or cash and relieves him of the necessity of placing stamps in each employee's book. Instead, at the end of each calendar or fiscal year he files, at an office of the Commission, statements showing the contributions paid in respect of each employee and on separating gives the separating employee a folder containing a statement showing the contributions paid up to the date of separation.

APPENDIX A

The following list of publications represents a selection likely to be of interest to persons doing business in Canada. All titles against which a catalogue number is quoted should be ordered from the Queen's Printer, Ottawa, Ontario. A remittance must accompany the order and be made payable to the Receiver-General of Canada.

TITLE	CATALOGUE NO.	PRICE \$
Provisions in Major Collective Agreements (twice yearly)		Free
Wage Determination in Canada	L2-26/3	.50
Labour Gazette (monthly)	L12-1	.50
Technical and Vocational Education in Canada	L12-8	Free
Canada Labour (Standards) Code, Ottawa, 1966	L34-1666	Free
Canada Labour (Safety) Code, Ottawa, 1967	L34-1667	Free
Women at Work in Canada, 1964	L38-664	.60
Manpower Trends in Canada: A Chart Book, Ottawa, 1965	L42-1265	1.00
The Behaviour of Canadian Wages and Salaries in the Postwar Period: A Graphic Presentation	L41-567	1.50
NES* Service to Small Business, Ottawa (1965)	L47-165	Free
Canadian Government Annuities	L51-165	Free
Department of Labour, Annual Report	L1-1968	Free
Wage Rates, Salaries and Hours of Labour, 1967	L2-550	3.00
Workmen's Compensation in Canada	L2-6/1963	.35
Provincial Labour Standards	L2-7/1964	.50
Working Conditions in Canadian Industry, 1968, Ottawa, 1969	22-15/1968	2.00
Manpower Consultative Service, Ottawa, 1965	L86-186	Free
Labour Standards in Canada, Ottawa, 1968	L2-7/1968	.75
Labour Organizations in Canada, 1968, Ottawa, 1969	L2-2/1968	.75
Teamwork in Industry (monthly)	L12-3/23	Free
Collective Bargaining Review (monthly)	L13-5/1966	Free
Labour Force	CS71-001	2.00
Fair Employment Laws in Canada		Free
Way to Profits	L32-2566	Free

*(NES) National Employment Service, now identified as (CMC) Canada Manpower Centres.

